IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 47 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

CHANDUBHAI AMARABHAI AAHIR

Appearance:
MR ASHISH H SHAH for the appellant
MR BG JANI for Respondents No. 1-7

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.H.KADRI

Date of decision: 21/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard learned counsel for the respective parties. The appeal is admitted. Learned advocate Mr.B.G.Jani appears for respondents Nos.1 to 6-original claimants and waives service of notice in the appeal. On a joint request of the learned counsel for the parties, this appeal is taken up for hearing today.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988, at the instance of the Gujarat State Road Transport Corporation, being the owner of the bus involved in the accident, which resulted in the death of Lilaben, whose heirs preferred a claim petition for compensation under Section 166 of the said Act.

3. The Motor Accident Claims Tribunal (Aux.) Ahmedabad, decided Motor Accident Claim Petition No.1597 of 1998 and delivered its award under Section 178 of the Act awarding the claimants compensation in the sum of Rs.2,31,000 together with costs and interest as specified in the said award. It is this award which is the subject matter of the present appeal.

4. The learned counsel for the appellant seeks to challenge the said award both on the quantum, that is to say, on the assessment of the income of the deceased, and the loss suffered by the claimants on account of her death and challenges the award also on the ground that no contributory negligence has been attributed to the deceased whatsoever.

5. We have heard the learned counsel for the respective parties on these two aspects. We have also perused such oral and documentary evidence on record to which our attention has been drawn.

6. As a result of the hearing and discussion on the evidentiary material on record, we had expressed our tentative opinion as to the fact that there is some scope for reduction in the quantum of compensation awarded to the claimants. With a view to bringing about a common meeting point, this Court exchanged views with the respective counsel. Ultimately, the learned counsel for the respective parties left the determination of an appropriate quantum of compensation to be awarded to the discretion of the Court without the necessity for recording reasons.

7. In the light of the above, we have applied our mind to the facts and circumstances of the case and also to the evidentiary materials on record. Accordingly, we hold and direct that the original claimants, i.e.

respondent Nos.1 to 6 in the present appeal, shall be entitled to compensation in the sum of Rs.1,90,000/- only (Rupees one lakh ninety thousand only). The impugned award is modified accordingly to the above extent. It is clarified that the rest of the award stands confirmed.

8. This appeal is, therefore, allowed to the aforesaid extent with no order as to costs. Decree be drawn accordingly. Direct service is permitted.

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(swamy)